att: Julian Carter

## STATE OF UTAH

OFFICE OF THE ATTORNEY GENERAL



## FILED

APR 0 6 2011

SECRETARY, BOARD OF OIL, GAS & MINING

## MARK L. SHURTLEFF ATTORNEY GENERAL

JOHN E. SWALLOW Chief Deputy

Protecting Utah • Protecting You

KIRK TORGENSEN Chief Deputy

April 4, 2011

Wayne Stout Encore Energy LLC 1216 18 1/2 Road Fruita, Colorado 81521

Re: Tomilson Fee #1 well Grand County, Utah API 43-019-30964

Mr. Stout:

I have been asked to respond to your March 31, 2011 'letter of appeal requesting a review' of the Division Order issued February 22, 2011. The Division Order required that you plug and abandon the above well and advised you that you could appeal that Order to the Board of Oil, Gas and Mining of a Division Order pursuant to rule R649-10-6 of the Utah Administrative Code. You have elected not to comply with the Order but to file this appeal. I am writing to advise you about the nature of the appeal and hearings before the Board. In addition this letter is to advise you that the Division will file its response to your appeal and ask for an order of the board requiring plugging of the well, and in the alternative an order that the surety provided for the well be forfeited and the well plugged by the Division.

Appeals to the Board are governed by the Procedural Rules of the Board published in the Utah Admin. Code at R641-100 to 119. You can access the rules on-line through the State of Utah website. An appeal is heard as a formal adjudication which means that the Board will hear sworn testimony of witnesses who are subject to cross-examination. The hearings are recorded by a court reporter and some rules of evidence apply. Rule r641-102-200 provides that an entity (not a natural person) seeking to appeal a Division action must be represented by an attorney. Since the appeal you have filed is on behalf of Encore Energy LLC and not you in your personal capacity you must be represented by an attorney at the hearing. In addition, you are strongly urged to obtain an attorney to advise you of your rights regarding the appeal.

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The rules of the Board also provide that an appeal filed prior to the 10<sup>th</sup> of the month will be set for hearing at the regularly scheduled meeting of the Board on the following month. Accordingly, the hearing of your appeal will be set for May 27, 2011. The rules also require you to file any evidence you intend to present 30 days prior to the hearing.

The Division will allow you to supplement the reasons for your appeal if your attorney makes a request to do so within a reasonable time prior to the hearing.

Finally, since you do not intend to comply with the Division Order within the time provided for in the Division Order, the Division will request as part of its response to your appeal an Order that the well be plugged and that the surety held be forfeited to the Division and used for the expenses of plugging, abandonment and reclamation of the well. If you do not appear at the hearing the Division will seek a default against you and an order forfeiting the surety and ordering the well plugged will be entered.

Sincerely,

Steve Alder

Assistant Attorney General

SA

cc: Julie Ann Conter, BL Se oretage Mike Johnson, Bd Attorney John Rosers, Assoc. Dir. Division.